

REMARKS

The Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-10 are requested to be cancelled.

No claims are being added.

Claims 11-14 are currently being amended.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 11-15 are now pending in this application.

Claim rejections under 35 U.S.C. §103

The Office rejected claims 1-15 for being obvious over Ichikawa (US Patent 6,786,956) in view of Ikeda (US 2004/0207702). (Office Action at page 2) The Applicants respectfully traverse on the ground that neither of the references can be used for the purpose of rejecting the claims under 35 U.S.C. §103(a).

US Patent 6,786,956 does not preclude the patentability of the present application pursuant to 35 U.S.C. §103(c). 35 U.S.C. §103 (c) provides:

(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Although it has an earliest effective filing date of December 28, 2000 (effective filing date of its Japanese counterpart, which was published on July 19, 2002), US Patent 6,786,956 has the same inventor, Shuji Ichikawa of Japan, and is assigned to the same assignee, Mitsubishi Pencil Co., Ltd as shown in the records, as the present application.

US 2004/020772 is not qualified as prior art under 35 U.S.C. §102. This is so because it has an earliest effective filing date of April 14, 2003 (effective filing date of its Japanese counterpart), which is later than the earliest effective filing date, September 20, 2002, of the present application (effective filing date of its Japanese counterpart).

For the reasons set forth above, the Office has not established a prima facie case of obviousness of the present application over the cited references. Accordingly, the Applicants respectfully request the reconsideration and withdrawal of the rejections.

The present invention is directed to solving the problem of blobbing at the start of writing, which is specific to a ballpoint pen using a high vapor pressure solvent.

The means for solving the above problem is use of a combination of a phosphoric acid ester neutralized material with a certain substance. By cooperation of the ingredients of the above combination, a desired and significant effect can be obtained. This effect can be seen by comparison of the Examples and the Comparative Examples of the present application.

Ikedda describes betaine as an active agent, but does not disclose or suggest that the problem of blobbing at the start of writing can be solved by cooperation of a combination of a betaine with a phosphoric acid ester neutralized material.

The Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for

such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to
Deposit Account No. 19-0741.

Respectfully submitted,

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By



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